

SECRETARY OF STATE[721]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 47.1 and 17A.3, the Secretary of State amends Chapter 22, "Voting Systems," Iowa Administrative Code.

These amendments are necessary due to the certification of a new voting system for use in the state of Iowa by the Board of Examiners for Voting Systems. Chapter 22 does not contain any standards for use of this system, and counties are in the process of proceeding with purchases of the newly certified system. Iowa Code section 52.5, subsection 4, requires administrative rules to be adopted governing the development of vote counting programs and all procedures used in actual counting of votes by means of the new system before it can be used in an actual election.

Pursuant to Iowa Code section 17A.4(3), the Secretary of State finds that notice and public participation are unnecessary because these amendments are required to be adopted by Iowa law and the rules for the new system are based on existing standards for voting systems that are already in use within the state.

Pursuant to Iowa Code section 17A.5(2)"b"(2), the Secretary of State further finds that the normal effective date of these amendments, 35 days after publication, should be waived and the amendments be made effective upon filing. These amendments confer a benefit upon the voting public by ensuring that all voting systems used within the state are programmed and tested to ensure the tabulation of votes is accurate and in accordance with Iowa law.

These amendments are also published herein under Notice of Intended Action as **ARC 0239C** to allow for public comment.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapters 49 and 52.

These amendments became effective July 11, 2012.

The following amendments are adopted.

ITEM 1. Adopt the following new paragraph **22.42(1)"d"**:

d. Mark at least one valid vote for each candidate and question on the ballot using the OVI unit (if applicable). The ballots marked by the OVI unit may be used as part of the systematic or straight party test deck (if applicable).

ITEM 2. Amend paragraph **22.42(4)"a"** as follows:

a. *Election Systems & Software and Unisyn OpenElect—overvote and blank ballot test.* For an overvote and blank ballot test, the commissioner shall:

(1) to (3) No change.

(4) Insert a blank ballot. When the blank ballot is rejected by the optical scan tabulator, override the rejection and include the ballot in the tally. This is a very important test of the accuracy of ballot printing. Printing errors sometimes put readable marks in the voting target area.

(5) No change.

ITEM 3. Amend rule 721—22.260(52) as follows:

721—22.260(52) Specific precinct count systems. Additional rules are provided for ~~the following systems~~ each voting system approved for use in Iowa. ~~Rule~~ The requirements in rules 721—22.261(52) through 721—22.265(52) applies apply only to the voting system ~~systems~~ indicated and ~~is are~~ in addition to the general provisions set forth in rules 721—22.200(52) through 721—22.250(52).

ITEM 4. Adopt the following new rule 721—22.264(52):

721—22.264(52) Unisyn OpenElect OVO unit—preparation and use in elections.

22.264(1) Security. The commissioner shall have a written security plan for the voting system. Access to equipment, programs and passwords shall be limited to those persons authorized in writing by the commissioner. The security plan shall be reviewed at least annually.

a. Passwords used at the polling places on election day shall be changed for each election.

b. For each election, the precinct chairperson shall be responsible for the custody and security of the keys for the voting equipment, the ballot boxes and the security of the voting system on election day.

22.264(2) Configuration choices. The following selections are mandatory for all elections:

a. *Access, messaging and tabulating selections.* In the Election Manager, “Election Options” menu, the following selections shall be made:

(1) “Allow Add Precinct” shall be checked.

(2) “Full Voter Ballot Review” shall not be checked.

(3) “Consolidate Splits” shall be checked.

(4) “Overvote by Voter” shall not be checked.

(5) “No Undervote Check” shall be selected in the Undervote Checking dropdown menu.

b. *Printing selections.* In the Election Manager, “Printing Options” menu, the following selection shall be made:

(1) “Auto Print Alerts” shall not be checked.

(2) “Voter Receipts” shall not be checked.

(3) “Display Contest Results on Summary” shall be checked.

c. *Ballot acceptance by the OVO unit.* In an official election, the commissioner shall not program the OVO for unconditional acceptance of all ballots and shall program the OVO unit to accept undervoted ballots. The system shall also be programmed to query the voter in each of the following situations:

(1) Overvoted ballot.

(2) Blank ballot.

(3) Unreadable ballot.

d. *Reports.* The following are required reports:

(1) Opening the polls. Print a zero vote totals report.

(2) Closing the polls. The poll report is the official record of the votes cast in the precinct on election day.

(3) Certification text. The following shall appear at the end of the poll report:

We, the undersigned precinct election officials of this precinct, hereby attest that this tape shows the results of all ballots cast and counted on this tabulating device at this election.

(Include signature lines for each of the officials to sign.)

22.264(3) Ballot layout. Although the Unisyn OpenElect voting system software includes choices for variations in ballot layout, all ballots shall be prepared according to the requirements of Iowa Code sections 43.26 through 43.29 and 49.30 through 49.48.

a. *Format.* The office title, instructions about the maximum number of choices the voter can make for the office, the candidate names and all write-in lines associated with each office on the ballot shall be printed in a single column on the same side of the ballot. All text and the “yes” and “no” choices for each public measure and for each individual judge on a ballot shall be printed in a single column on the same side of the ballot. No office or public measure on any ballot shall be divided to appear in more than one column or on more than one page of a ballot. For all elections, the voting target shall be printed on the left side of each choice on the ballot.

b. *Instructions for voters.* The ballots shall contain instructions for voters including:

(1) How to mark the ballot;

(2) Straight party voting instructions in general elections as required by Iowa Code section 49.37;

(3) Where to find the judicial ballot (if any); and

(4) Constitutional amendment (if any) as required by Iowa Code section 49.48 and notices to voters on ballots with public measures (if any) as required by Iowa Code section 49.47.

22.264(4) System error message. Precinct election officials shall be provided with a list of known system error messages and the appropriate responses. The officials shall be instructed to contact the commissioner or the commissioner's designee for all other messages, errors or voting equipment malfunctions on election day.

22.264(5) Preelection testing. All voting equipment shall be tested pursuant to the provisions of Iowa Code section 52.30 and rule 721—22.42(52). At the commissioner's discretion, additional logic and accuracy tests may be conducted.

ITEM 5. Adopt the following new rule 721—22.265(52):

721—22.265(52) Unisyn OpenElect OVI unit.

22.265(1) Acceptance testing. Upon receipt of the equipment from the vendor, the commissioner shall subject each OVI unit to an acceptance test. The test shall be in addition to any testing provided by the vendor and shall include a demonstration of the functionalities of the device.

22.265(2) Audio ballot preparation. Each candidate shall have an opportunity to provide a record of the proper pronunciation of the candidate's name. The same voice shall be used for recording the entire ballot including instructions, office titles, candidate names and the full text of all public measures.

22.265(3) Timeout value. The OVI timeout value shall be set to 600 seconds. Precinct election officials shall monitor the use of the OVI unit to ensure that voting sessions are not automatically terminated due to inactivity. If a voter abandons a voting session initiated on the OVI unit without printing a ballot, the two precinct election officials designated to assist voters shall print the ballot without reviewing it or making any changes to the voter's choices before the OVI unit times out due to inactivity, enclose the ballot in a secrecy folder, and immediately deposit the ballot in the tabulating device.

22.265(4) Preelection testing. Each OVI unit shall be tested before each election in which it will be used. The commissioner must use the OVI unit to prepare some ballots for the test decks as required by paragraph 22.42(1)“d.” In addition, the commissioner shall verify that:

- a. The vote response fields on the screen align with the candidate names or choices.
- b. All contests and candidates appear on the screen for each precinct.
- c. All contests and candidates are included in the audio ballot for each precinct.
- d. All voting positions in each race can be selected, then deselected, using the touchscreen and the keypad.
- e. Selections on the printed ballots accurately reflect the voter's choices.
- f. Overvote and undervote functions are programmed correctly.
- g. The write-in function for each office is working correctly. All letters in the alphabet must be tested.
- h. There is enough paper on the paper roll to print a minimum of ten ballots for the election in which the OVI unit is being used.

22.265(5) Availability at public test. The commissioner shall ensure that the OVI unit is available for demonstration at public tests.

22.265(6) TM. The TM device used with the OVI unit shall be installed before the OVI unit is locked, sealed and transported to the polling place for election day. The commissioner shall lock and seal the OVI unit, record the seal number and provide the number to the precinct election officials as required by rule 721—22.51(52). From the time the OVI unit is delivered to the polling place until the time the precinct officials arrive, the OVI unit shall be stored securely to prevent tampering. On election day, the precinct election officials shall inspect the seal and verify that the original numbered seal is present and undamaged.

22.265(7) Touchscreen and printer testing. The commissioner may provide for printer and touchscreen testing after delivery of the OVI unit to the polling place. If touchscreen testing is performed at the polling place, the delivery staff shall complete the testing before the polls open on election day. Staff shall keep a log for each OVI unit and record the machine serial number, precinct name or number, nature of the test, date and time of the test and name of the person performing the test.

22.265(8) *OVI unit keys.* Possession of the OVI unit keys shall be restricted to the precinct chairperson and authorized members of the commissioner's staff.

22.265(9) *Table or voting booth.* The table or voting booth used to support the OVI unit shall meet the following requirements:

- a.* The table shall be sturdy enough to hold the OVI unit safely.
- b.* Clearance shall be at least 27 inches high, 30 inches wide, and 26 inches deep.
- c.* The top of the table shall be from 28 inches to 34 inches above the floor.

22.265(10) *Privacy.* The commissioner shall instruct the precinct election officials to position the OVI unit to provide maximum privacy and access to voters.

22.265(11) *Abandoned ballots.* If a voter or a precinct election official discovers that a voter has left the voter's ballot at the OVI unit, the two precinct election officials designated to assist voters shall enclose the ballot in a secrecy folder and immediately deposit the ballot in the tabulating device.

22.265(12) *Extra paper rolls.* Each precinct in which an OVI unit is being used shall be equipped with an extra paper roll for the OVI unit, and precinct election officials shall be instructed as to the method of replacing the paper roll.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/8/12.